

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

WILLIE MCNAIR,)	
)	
Plaintiff/Counter-Defendant,)	
)	
v.)	No. 2:06-cv-695-WKW-CSC
)	
RICHARD ALLEN, et al.,)	
)	
Defendants/Counter-Plaintiffs.))	

**DEFENDANTS' NOTICE OF ADDITIONAL AUTHORITY IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

Defendants Richard Allen, Commissioner, and Grantt Culliver, Warden, previously moved for summary judgment on the grounds that McNair's complaint was barred by the statute of limitations under McNair v. Allen, 515 F.3d 1168 (11th Cir. 2008). In McNair, the Eleventh Circuit ruled, as a matter of first impression, that a method of execution claim accrues on the later of the date on which direct appellate review is complete, or the date on which the capital litigant becomes subjected to a new or substantially changed execution protocol. McNair, 515 F.3d at 1174. The McNair decision was recently applied to time bar a lethal injection challenge filed by a death-sentenced inmate in Georgia. See Crowe v. Donald, __ F.3d __, 2008 WL 2096831 at *2-3 (11th Cir. May 20, 2008). The

defendants hereby file this notice bringing this precedent to this Court's attention.

Respectfully submitted,

Troy King
Alabama Attorney General

s/ J. Clayton Crenshaw
J. Clayton Crenshaw (CRE007)
Assistant Attorney General

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CERTIFICATE OF SERVICE

This is to certify that on the 27th day of May, 2008, a copy of the foregoing has been electronically filed with the Clerk of the Court using the CM/ECF system, which will electronically send a copy of the same to the following:

Randall S. Susskind, Cathleen I. Price, Vincent R. Fitzpatrick, Jr., Heather K. McDevitt, and Stephanie Cohen.

s/ J. Clayton Crenshaw
J. Clayton Crenshaw
Assistant Attorney General

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